

REMARKS

Claims 1–18 are pending in this application. By this Amendment, claims 1–18 are amended to more clearly recite various novel features of the claimed invention. Support for the amendments may be found, for example, in the original claims. No new matter is added.

In reply to the April 16 Restriction and Election of Species Requirement, Applicants respectfully submit that the Requirement is based on an incorrect construction of the claims. As such, the claims are amended to clarify that "an existence ratio of at least one surface element...is 20% or more on a surface of the lithium-transition metal composite oxide" where at least one surface element "is selected from the group consisting of magnesium and elements which may become tetravalent." In view of the amendments made to the claims, the bases presented in support of the Restriction Requirement, and specifically the different classifications assigned to inventions, are not applicable to the claimed subject matter.

Additionally, the Election of Species Requirement is improper at least because it is directed to different claims, as opposed to different subject matter. That is, it is not appropriate to require an election of species between different claims. Rather, the Examiner should identify different embodiments or figures. Without identifying such different embodiments or figures, it is impossible for the applicants to identify which claims are generic and/or read on the elected species.

Therefore, for at least the reasons presented above, Applicants respectfully request reconsideration and withdrawal of the restriction and election of species requirements.

However, because the Applicants are required to make such elections even though the requirements are traversed, Applicants provisionally elect Group I, claims 1-5, 7-11, and 13-17, and Species 5, with traverse. All claims read on the elected species. At least claim 1 is generic to all species.

Respectfully submitted,



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